

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1782-01  
Bill No.: HB 784  
Subject: Health Care; Health Department; Nursing and Boarding Homes  
Type: Original  
Date: March 5, 2001

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
None			
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 4 pages.

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Attorney General** assume this proposal would not fiscally impact their agency.

**Department of Social Services (DOS)** officials state the Division of Aging has projected that it believes that current resources available for surveying and licensure functions are adequate to implement the provisions of the proposal. DOS states that depending on the number of revocations which may occur, the Division of Aging may seek additional FTE in the future.

**DOS - Division of Legal Services (DLS)** states some increase in FTE may be projected in response to this proposal. In FY 2000, DLS closed 27 cases involving some form of nursing home licensure action. Some these were actual revocation, some were informal dispute resolution proceedings related to statements of deficiencies (SODs), and some were actions in circuit court where licensees sought review of SODs. DLS is seeing an increase in the number of circuit court filings attacking SODs because of the impact the SODs have on nurse aid training payments and availability of Certificate of Need for future consideration. This proposal would attach another consequence to a first time SOD even if no revocation action were taken. A facility cited for a particular deficiency would have an added incentive to go to circuit court to have that deficiency removed so that it did not become a "first deficiency" and form a basis for a "second deficiency" which could be the cause of a license revocation. DLS estimates an increase in nursing home licensure proceedings (of all types including Administrative Hearing Commission, IDRs, and circuit court actions) from 27 to 40 cases. If each case required an average of 100 hours of attorney time, that would amount to 1,300 hours (13 cases x 100 hours/case = 1,300 hours). DLS states this would call for a .5 FTE attorney to handle these cases (1,300 hours / 2,080 hours per FTE = .625 FTE).

**Oversight** assumes that DOS - Division of Legal Services could absorb the part-time staff with existing resources. However, if additional proposals are approved during the legislative session, DOS may need to request an increase in appropriations due to the combined effect of multiple proposals.

### FISCAL IMPACT - State Government

FY 2002  
(10 Mo.)

FY 2003

FY 2004

\$0

\$0

\$0

FISCAL IMPACT - Local Government

FY 2002  
(10 Mo.)

FY 2003

FY 2004

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses would expect to be fiscally impacted to the extent the expansion of circumstances in which a nursing home license may be revoked and would increase the civil monetary penalties as a result of the requirements of this proposal.

DESCRIPTION

This proposal would increase the civil monetary penalty ranges for violations of class I, II, and III standards for long-term care facilities. It would also increase the penalty range for violations of federal standards that are not violations of state law or regulation. The proposal would also increase the maximum penalty for violations that result in serious physical injury or sexual abuse.

Currently, civil monetary penalties are required to be reduced by the amount the facility operator has paid for the breach of the same federal standards. The proposal would make the reduction in the civil monetary penalty discretionary and would require the state action to arise out of the same conduct as the violation that incurred the federal penalty. A written notice of noncompliance would be given to the Attorney General. The Attorney General may bring suit against a licensed facility operator to recover civil monetary penalties. The Department of Social Services would be allowed to revoke a facility license when the operator of a facility is cited for failure to comply with a class I standard twice in a 24-month period or for failure to comply with a class II or class III standard twice in a 12-month period. Currently, nursing assistants must have successfully completed a training program or enroll in one within 90 days of their employment. The proposal would require that nursing assistants enroll in a program within 60 days and complete the program within 90 days of their employment. The facility can establish and carry out a training program as long as it has not been cited for certain violations within a certain time period. The department would be required to approve training programs before they are offered or provided by the facility. The proposal would require that supervised on-the-job training for nurse assistants be completed within 90 days of their employment, and it would change the required number of hours of basic orientation for nursing assistants from 12 to 30.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General  
Department of Social Services

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive script.

Jeanne Jarrett, CPA  
Director

March 5, 2001